

MEDICINE BOARD[653]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 148E.7, the Board of Medicine hereby gives Notice of Intended Action to adopt new Chapter 12, "Nonpayment of State Debt," and to amend Chapter 23, "Grounds for Discipline," Iowa Administrative Code.

The Board approved these proposed amendments during its regularly held meeting on July 10, 2008.

Proposed Chapter 12 establishes that the Board may deny an application for the issuance or renewal of a medical or osteopathic medical license or acupuncture license or suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the Department of Revenue according to the procedures set forth in 2008 Iowa Acts, Senate File 2428, division II. The proposed rules spell out the procedures related to preparation and service of a denial notice, effective date of denial, responsibility of licensees and applicants to inform the Board of all actions related to the certificate of noncompliance, reinstatement following action against a license for state debt, effect of filing in district court, and final notification.

Proposed amendments to Chapter 23 address grounds for discipline related to state debt.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on September 2, 2008. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686; or sent by E-mail to ann.mowery@iowa.gov.

These amendments are intended to implement Iowa Code chapters 17A, 147, 148 and 272C and 2008 Iowa Acts, Senate File 2428, division II.

The following amendments are proposed.

ITEM 1. Adopt the following **new** 653—Chapter 12:

CHAPTER 12 NONPAYMENT OF STATE DEBT

653—12.1(82GA,SF2428) Definitions. For the purpose of this chapter, the following definitions shall apply.

"Act" means 2008 Iowa Acts, Senate File 2428, division II.

"Applicant" means an individual who is seeking the issuance of a license.

"Board" means the board of medicine.

"Centralized collection unit" means the centralized collection unit of the Iowa department of revenue.

"Certificate of noncompliance" means a document provided by the centralized collection unit of the department of revenue certifying that the named applicant or licensee has an outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

"Denial notice" means a board notification denying an application for the issuance or renewal of a license as required by the Act.

"Revocation or suspension notice" means a board notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by the Act.

"Withdrawal certificate" means a document provided by the centralized collection unit certifying that the certificate of noncompliance is withdrawn and that the board may proceed with issuance, reinstatement, or renewal of a license.

653—12.2(82GA,SF2428) Issuance or renewal of a license—denial. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the centralized collection unit. This rule shall apply in addition to the procedures set forth in the Act.

12.2(1) *Service of denial notice.* Notice shall be served upon the applicant or licensee by certified mail, return receipt requested; by personal service; or through authorized counsel.

12.2(2) *Effective date of denial.* The effective date of the denial of the issuance or renewal of a license, as specified in the denial notice, shall be 60 days following service of the denial notice upon the applicant or licensee.

12.2(3) *Preparation and service of denial notice.* The executive director of the board is authorized to prepare and serve the denial notice upon the applicant or licensee.

12.2(4) *Licensees and applicants responsible to inform board.* Licensees and applicants shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with the Act. Licensees and applicants shall also provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawals of certificates issued by the centralized collection unit.

12.2(5) *Reinstatement following license denial.* All board fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to the Act.

12.2(6) *Effect of filing in district court.* In the event an applicant or a licensee files a timely district court action following service of a board denial notice, the board shall continue with the intended action described in the denial notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

12.2(7) *Final notification.* The board shall notify the applicant or licensee in writing through regular first-class mail, or such other means as the board determines appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the applicant or licensee if the license is issued or renewed following the board's receipt of a withdrawal certificate.

653—12.3(82GA,SF2428) Suspension or revocation of a license. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit according to the procedures set forth in the Act. This rule shall apply in addition to the procedures set forth in the Act.

12.3(1) *Service of revocation or suspension notice.* A revocation or suspension notice shall be served upon the licensee by certified mail, return receipt requested; by personal service; or through authorized counsel.

12.3(2) *Effective date of revocation or suspension.* The effective date of the suspension or revocation of a license, as specified in the revocation or suspension notice, shall be 60 days following service of the notice upon the licensee.

12.3(3) *Preparation and service of revocation or suspension notice.* The executive director of the board is authorized to prepare and serve the revocation or suspension notice upon the licensee and is directed to notify the licensee that the license will be suspended, unless the license is already suspended on other grounds. In the event that the license is on suspension, the executive director shall notify the licensee of the board's intention to revoke the license.

12.3(4) *Licensee responsible to inform board.* The licensee shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with the Act. Licensees shall also provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawal certificates issued by the centralized collection unit.

12.3(5) Reinstatement following license suspension or revocation. A licensee shall pay all board fees required for license renewal or license reinstatement before a license will be reinstated after the board has suspended or revoked a license pursuant to the Act.

12.3(6) Effect of filing in district court. In the event a licensee files a timely district court action pursuant to the Act, and following service of a revocation or suspension notice, the board shall continue with the intended action described in the revocation or suspension notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the license suspension or revocation, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

12.3(7) Final notification. The board shall notify the licensee in writing through regular first-class mail, or such other means as the board determines appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license, and shall similarly notify the licensee if the license is reinstated following the board's receipt of a withdrawal certificate.

These rules are intended to implement 2008 Iowa Acts, Senate File 2428, division II.

ITEM 2. Amend rule 653—23.1(272C), as follows:

653—23.1(272C) Grounds for discipline. The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148, 148E, ~~150, 150A,~~ 252J, 261₂ or 272C or 2008 Iowa Acts, Senate File 2428, division II, or the rules promulgated thereunder. The grounds for discipline apply to physicians and acupuncturists. This rule is not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law. The board may impose any of the disciplinary sanctions set forth in 653—subrule 25.25(1), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

ITEM 3. Renumber subrule **23.1(40)** as **23.1(41)**.

ITEM 4. Adopt the following **new** subrule 23.1(40):

23.1(40) Nonpayment of state debt as evidenced by a certificate of noncompliance issued pursuant to 2008 Iowa Acts, Senate File 2428, division II, and 653—Chapter 12.

ITEM 5. Amend **653—Chapter 23**, as follows:

This rule is intended to implement Iowa Code chapters 17A, 147, 148 and 272C and 2008 Iowa Acts, Senate File 2428, division II.